

SALES AND USE TAXES PRESENTED TO THE BOARD

FOR ACTION ON CLAIM FOR REFUND

105.0170

[U], Inc.
Tax Department
P.O. Box XXXXX
---, Illinois XXXXX

Account No. SY --- XX-XXXXXX

A claim for refund filed October 8, 1970 for the period January 1, 1967 through September 30, 1970, and subsequently amended to extend the period through November 22, 1970, for a total claim of \$1,625,350.82, was taken under consideration on September 12, 1972 to afford the staff an opportunity to re-examine the contentions advanced by the claimant.

The claimant contended that the parts it installed to repair or maintain aircrafts leased to it, constituted sales to the lessor since title to these parts passed to the lessor, as provided by the lease contracts. The lessor then resold the parts back to [U] in the form of a lease, exempt under Section 6366.1, which exempts leases of aircrafts to common carriers. Therefore, the initial purchase of the parts by [U] were exempt as being for resale and entitled to a tax paid purchases resold credit.

After review of the contentions presented by the claimant, the staff concluded that [U] was the consumer and not the seller of repair parts it installed on aircrafts leased to it. As a lessee, [U] had the statutory obligation to make the necessary repairs to the aircraft in its possession, and to maintain them in operable condition for use and benefit of [U]. No new or additional evidence have been submitted to support the claimants contentions, therefore, it is recommended that the claim for refund be denied.

Should the recommendation of the staff be approved, notification to the taxpayer of the Board's decision will be as follows:

The Board concluded that [U] Inc., was the consumer of parts installed on aircrafts leased by it and was not selling the parts to the lessors for resale by the lessors back to [U] by way of the exempt leases. Accordingly, the claim for refund was denied.

HK:jh
9-28-72

Memorandum

105.0170

To: Mr. Glenn Bystrom

Date: May 29, 1996

From: Gary Jugum

Subject: Non-Attorney Opinions

I have reviewed H. K. Lackmann's Notice of Proposed Action of September 28, 1972 to the Board.

We are in agreement with his conclusion, as follows:

Leased Aircraft – Repair Parts. The lessee of an aircraft has the statutory obligation to make the necessary repairs to the aircraft in its possession, and to maintain them in operable condition. Therefore, parts installed by the lessee to repair or maintain the aircraft are not sales to the lessor of the aircraft, notwithstanding the lease provision passing title to such parts to the lessor. The purchase of such parts by the lessee are not exempt as sales for resale to the lessor, nor sold back to the lessee by the lessor in the form of a lease exempt under section 6366.1. The lessee is the consumer of the parts. 9/28/72.